

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FRANK N. HERNANDEZ, JR.,)	
)	
Plaintiff,)	No. 04 C 7844
)	
v.)	Judge Rebecca R. Pallmeyer
)	
MIDLAND CREDIT MANAGEMENT, INC.;)	Magistrate Judge Sidney I. Schenkier
MRC RECEIVABLES CORPORATION; and)	
ENCORE CAPITAL GROUP, INC.,)	
f/k/a MCM CAPITAL GROUP, INC.,)	
)	
Defendants.)	

STIPULATION

Frank N. Hernandez, Jr., the plaintiff in Case No. 04 C 7844 in the United States District Court for the Northern District of Illinois, hereby stipulates and agrees with the defendants Midland Credit Management, Inc. (“MCM”), MRC Receivables Corporation (“MRC”), and Encore Capital Group, Inc., f/k/a MCM Capital Group, Inc. (“Encore”), the parties acting by and through their counsel as indicated by the signatures below, for the sole purposes of the aforesaid action (the “Subject Action”) only, as follows:

1. As of this date, if a class(es) is certified in the above action and if the plaintiffs prevail on liability against either or both MCM and Encore, the net worth of either Defendant MCM or Encore is sufficient so that the statutory maximum total amount of damages of \$500,000, in the Subject Action may be awarded. Any judgment in the Subject Action shall not exceed a total of \$500,000 for the class under 1692k(a)(2)(B)(ii). For purposes of this Subject Action and the “resources” of the debt collector under Section 813k(b)(2) of the Fair Debt Credit Collection Practices Act, 15 U.S.C. §1692k(b)(2), Defendants stipulate that their combined resources exceed Fifty Million Dollars (\$50,000,000.00).

2. MCM and Encore represent and stipulate that the Subject Action is currently being defended under a Chubb PROE&O (“Chubb”) Policy Number 6801-8104, issued by Executive Risk Indemnity Inc., with limits of liability inclusive of defense costs of \$5,000,000 per each wrongful act and \$5,000,000 aggregate, as reflected in the Declaration Page of said Policy, a copy of which has been previously provided to the plaintiffs herein.

3. In exchange for this Stipulation, Plaintiffs agree to dismiss MRC from this lawsuit with prejudice.

4. At any point in the Subject Action, neither MCM nor Encore shall use the absence of the owner of the debt as a defense to the plaintiffs’ alleged claims or against class certification.

5. There shall be no discovery undertaken in the Subject Action with regard to the net worth of the Defendants and/or of any of the Defendants’ corporate affiliates or subsidiaries. Furthermore, there shall be no discovery undertaken with regard to the financial relationship between and among the Encore Capital Group, Inc., Defendant MCM, Defendant MRC and/or any other entities owned by Encore Capital Group, Inc. or subsidiaries or affiliates thereof. However, this stipulated limitation on discovery applies only to pre-judgment discovery. In the event that a judgment is entered, Plaintiffs may take whatever post-judgment discovery is allowable under the law in order to collect on the judgment.

6. Subject to ¶ 4 above, Defendants do not waive any argument or position that a class should not be certified in the Subject Action or that the defendants are not liable. Subject to ¶ 4 above, Defendants may continue to present all available defenses in the Subject Action. Defendants may argue that the class(es) should not be awarded any damages, and/or that the class(es) should be awarded less than the maximum amount allowed under this Stipulation.

7. This Stipulation can only be used in the Subject Action and cannot be used for any other purpose or in any other case.

8. By entering into this Stipulation, neither the plaintiffs nor the defendants are making any admissions, the defendants continue to deny any liability whatsoever, and the plaintiffs continue to assert that defendants violated the FDCPA.

s/ Derek B. Rieman

Daniel Edelman
Cathleen M. Combs
James O. Latturner
Derek B. Rieman
Edelman, Combs, Latturner & Goodwin LLC
120 S. LaSalle Street
18th Floor
Chicago, Illinois 60603
Phone: 312-739-4200
Fax: 312-419-0379

Attorneys for Plaintiff Frank N. Hernandez, Jr.

s/ Renee L. Zipprich

Richard E. Gottlieb
James W. McConkey
Renee L. Zipprich
Dykema Gossett PLLC
10 South Wacker, Ste. 2100
Phone: 312.627.2196
Attorney for Defendants, Midland Credit
Management, Inc., MRC Receivables
Corporation, and Encore Capital Group, Inc.,
f/k/a MCM Capital Group, Inc.

CHICAGO\2174851.1
ID\RLZ